



კოალიცია
დამოუკიდებელი
და გამჭვირვალე
მართლმსაჯულებისთვის
Coalition for
an Independent and
Transparent Judiciary

The Coalition for Independent and Transparent Judiciary calls on politicians to exercise caution while assessing the cases ongoing at the Constitutional Court

The Coalition responds to the statements made by the representatives of the governing political power, the vice-speaker of Parliament Manana Kobakhidze and the Parliamentary Majority Leader Zviad Kvachantiradze, as well as the Minister of Justice, Thea Tsulukiani, regarding the Constitutional Court of Georgia. These statements are

saturated with superficial political assessments that have nothing in common with substantiated legal critique of judicial acts. In certain cases such statements may even amount to attempted pressure on judiciary, which is especially dangerous in relation to the cases currently being heard or due to be heard by the Court.

Specifically, Manana Kobakhidze's statement that the Constitutional Court practice and law prohibit suspension of a norm in relation to one subject is wrong. In the case of Sakartvelo TV company the Constitutional Court did not suspend the norm entirely, but rather the normative content, which provided for the possibility to grant directing, managing and representative authorities to temporary managers in all media, not just Rustavi 2. There have been cases since 2009 in which the Constitutional Court has **deemed** the normative content of the law, and not the law in its entirety unconstitutional. As an example, besides the Rustavi 2 case, the Constitutional Court has suspended the normative content of a law in the organ transplantation case. Hence it is incorrect to state that suspension of a normative content is a legal mechanism invented specifically for the purposes of Rustavi 2 case.

The Coalition also believes that Minister of Justice, Thea Tsulukiani's statement that the Ministry plans to take steps towards reforming the Constitutional Court merits more explanation. The Minister has not specified what spheres of Constitutional Court's activity the Ministry is considering or working on reforming. Clearly, the idea of reforming the entire justice system, including the Constitutional Court, is not surprising or should be subjected to criticism. However the Minister's statement, the existing context and the vagueness or confusion that the Minister's statement bred in the public, create the feeling that this was an action caused by dissatisfaction with a specific decision of the Constitutional Court and the reaction of the governing political power.

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



The Coalition calls on the Minister of Justice to provide more information to the public on what the Ministry means by reforming the Constitutional Court. The Coalition wishes to clarify that the appointment of Constitutional Court Justices, their terms of service and the authority of the Constitutional Court are regulated by the Constitution of Georgia. Fundamental reform of the Constitutional Court is impossible without Constitutional amendments. Additionally, the Coalition considers that the fact that the legislative and executive branches are displeased by the Constitutional Court's activities and the contents of its specific decisions should not be the basis for reforming the Constitutional Court, or implementing any other changes.

As for the need for reform, the ongoing justice system reforms led by the executive branch must be adequately discussed with the judges and their positions must be taken into consideration when planning and implementing changes. The Coalition also considers it essential for the government's long term vision regarding the steps needed to be taken with regards to the Common and Constitutional Courts systems to be clearly spelled out in policy documents, strategies and action plans, including in the text of the 2016-2017 Human Rights Action Plan of the government.

The Coalition calls on the government representatives to refrain from making substantially flawed and misleading statements regarding the Constitutional Court. Also, it is important that the politicians are careful when weighing in on the cases considered by the Court and refrain from disseminating statements that will be perceived as intrusive into the working of the Court and pressuring Justices.